



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

MAR 10 2015

Gallagher & Kennedy, P.A.  
2575 East Camelback Road  
Phoenix, AZ 85016-9225

RE: MUR 6465  
Shawn Schoeffler

Dear Sir or Madam:

On November 8, 2012, your client, Shawn Schoeffler, was notified that the Federal Election Commission (the "Commission") found reason to believe that he violated 52 U.S.C. §§ 30118(a) and 30122 (formerly 2 U.S.C. §§ 4442b(a) and 441f). On February 29, 2012, your client submitted responses to the Commission's reason to believe finding. After considering the circumstances of the matter, the Commission determined on February 27, 2015, to take no further action as to Shawn Schoeffler, and closed the file. See General Counsel's Report # 3.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009).

If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in cursive script that reads "Marianne Abely".

Marianne Abely  
Attorney

Enclosure

~~CONFIDENTIAL~~

FEDERAL ELECTION  
COMMISSION

BEFORE THE FEDERAL ELECTION COMMISSION

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MUR 6465

THIRD GENERAL COUNSEL'S REPORT

I. ACTIONS RECOMMENDED

This Office recommends that the Commission take no further action and close the file as to Gary Husk and Shawn Schoeffler; and close the file as to Anthony Aguilar, Scot Asher, Peggy Eyanson, Lee Eyanson, Jamie Fields, Jay Fields, Susan Junker, Mary McGlynn, Monica Simental, and Richard Wisneski.

II. BACKGROUND

This matter arose from a complaint alleging that The Arizona Sports Foundation, dba The Fiesta Bowl ("Fiesta Bowl"), a non-profit corporation, and certain individual officers and employees and their spouses violated 52 U.S.C. §§ 30118(a) and 30122 (formerly 2 U.S.C. §§ 441b(a) and 441f) by making prohibited contributions in the names of others to various federal political committees.<sup>1</sup> The Commission has negotiated and accepted signed conciliation agreements with the primary Respondents in this matter, namely, the Fiesta Bowl, its former President and Chief Executive Officer, John Junker, and its former Chief Operating Officer, Natalie Wisneski. The Fiesta Bowl admitted to knowingly and willfully violating 52 U.S.C. §§ 30118(a) and 30122 (formerly 2 U.S.C. §§ 441b(a) and 441f) and paid a \$71,000 civil penalty.

<sup>1</sup> On September 1, 2014, the Federal Election Campaign Act of 1971, as amended, (the "Act") was transferred from Title 2 to Title 52 of the United States Code.

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5 Husk Factual and Legal Analysis at 4-7 ("F&LA"); Commission Certification ¶ 1, MUR 6465 (Nov. 8, 2012).

resources. As such, we recommend that the Commission take no further action and close the file as to Husk.

Similarly, we recommend that the Commission not proceed further with respect to several additional Fiesta Bowl executives and employees who allegedly participated in the reimbursement scheme, because none of those individuals directed the unlawful activity and appeared to participate as conduits only at the behest of Junker, Wisneski, or both. Accordingly, we recommend that the Commission take no further action and close the file as to Shawn Schoeffler and close the file as to the remaining conduit Respondents.

### III. DISCUSSION

#### A. Gary Husk

Gary Husk is an attorney and registered lobbyist in the state of Arizona.<sup>6</sup> Husk's association with the Fiesta Bowl began in 2000 while he was employed by the public affairs company, Jamieson & Gutierrez, Inc. ("Jamieson & Gutierrez"), which assisted the Fiesta Bowl with various matters relating to the public financing, construction, and use of a new stadium.<sup>7</sup> Husk's duties during the two years he worked at the company did not include lobbying or

<sup>6</sup> Husk Resp. at 1-2 (Dec. 15, 2011); *see also* Final Report to the Counsel to the Special Committee of the Board of Directors of the Fiesta Bowl at 256-60 (Mar. 21, 2011) ("Final Report"), [http://www.fiestabowl.org/public/downloads/reports/Fiesta\\_Bowl\\_Final\\_Public.pdf](http://www.fiestabowl.org/public/downloads/reports/Fiesta_Bowl_Final_Public.pdf).

<sup>7</sup> Affidavit of Alfredo Gutierrez ¶¶ 2-3 (Mar. 8, 2012); Resp. at 2. Gutierrez was the President and owner of Jamieson & Gutierrez.

soliciting contributions from persons associated with the Fiesta Bowl.<sup>8</sup> In 2002, Husk became president of Husk Partners, Inc., the successor firm to Jamieson & Gutierrez. From 2002 to 2010, Husk Partners provided the Fiesta Bowl with general consulting and lobbying services, which included negotiating the use of the stadium with governmental entities, lobbying for legislation favorable to the Fiesta Bowl, soliciting business sponsorships, and soliciting, collecting, and transferring political contributions.<sup>9</sup> As an attorney, Husk also provided legal services to the Fiesta Bowl, including assistance with a number of tax audits.<sup>10</sup> There is no evidence, however, that Husk controlled the Fiesta Bowl's financial operations or the discretionary bonus pool out of which most of the employee contributions at issue were reimbursed.<sup>11</sup>

On November 8, 2012, the Commission found reason to believe that Husk may have been involved with the Fiesta Bowl reimbursement scheme and thereby knowingly and willfully violated 52 U.S.C. § 31122 (formerly 2 U.S.C. § 441f).<sup>12</sup> The record before the Commission

<sup>8</sup> Gutierrez Aff. ¶¶ 7-8. Although Husk stated that he was "the lead consultant assigned to the Fiesta Bowl" between 2000 and 2010, Husk Resp. at 3-4, information filed with the Arizona Secretary of State's office indicates that DeMenna & Associates was the designated lobbyist for the Fiesta Bowl between February 2000 and 2005 and provided the organization with fundraising services within that time frame. See [http://www.azsos.gov/scripts/Lobbyist\\_Search.dll/ZoomPPB?PPB\\_ID=104817](http://www.azsos.gov/scripts/Lobbyist_Search.dll/ZoomPPB?PPB_ID=104817); see also Gutierrez Aff. ¶¶ 5-7; RTB Resp. at 2 (Feb. 17, 2012); Suppl. RTB Resp., Exs. G, F (Feb. 11, 2014); Suppl. RTB Resp. at 2, 7-8 (Aug. 14, 2013). Husk Partners, Inc. was registered as the designated lobbyist for the Tostitos Fiesta Bowl from March 1, 2000 to January 13, 2011. See [http://www.azsos.gov/scripts/Lobbyist\\_Search.dll/ZoomLOB?LOB\\_ID=3100128](http://www.azsos.gov/scripts/Lobbyist_Search.dll/ZoomLOB?LOB_ID=3100128).

<sup>9</sup> Husk Resp. at 2-3, 4-5. Affidavit of Gary A. Husk ¶¶ 2-6 (Feb. 10, 2014); see also Final Report at 35, 37, 40, 256, 259-60. According to the Final Report, the Fiesta Bowl paid Husk Partners over \$407,000 between April 2, 2003 and March 15, 2005 and May 25, 2010, and over \$775,000 between April 15, 2005 and October 8, 2010. Final Report at 80, 256, Sched. V.

<sup>10</sup> Final Report at 260. Between June 15, 2004 and October 8, 2010, the Fiesta Bowl paid Husk \$30,148 for his legal services. *Id.* at 80, 256, Sched. V.

<sup>11</sup> The majority of reimbursement checks were issued from the manual checkbook, which was under the control of Wisneski and her staff. *Id.* at 37-39, see also Husk Aff. at ¶ 8; Suppl. RTB Resp. at 9 (Aug. 14, 2013).

<sup>12</sup> Commission Certification ¶ 1, MUR 6465 (Nov. 8, 2012).

1 indicated that Husk may have played a pivotal role in the Fiesta Bowl reimbursement scheme by  
2 devising the plan to reimburse Fiesta Bowl employee contributions through the issuance of  
3 bonuses and attempting to conceal the scheme by obstructing an initial internal investigation into  
4 the allegations.<sup>13</sup>

5 Husk claims that he was not involved in that unlawful activity and contends that the  
6 material supporting the Commission's prior reason to believe determination as to  
7 him — particularly the statements made by Junker and Wisneski in connection with their guilty  
8 pleas — contain self-serving, biased, or otherwise inaccurate information.<sup>14</sup> While the record  
9 indicates that Husk was aware of the reimbursement scheme and assisted in concealing the  
10 reimbursement activities from the Fiesta Bowl Board of Directors during an initial internal  
11 investigation, Husk points to conflicting testimony concerning his level of involvement in  
12 originating the scheme.<sup>15</sup>

<sup>13</sup> See Final Report; Criminal Information, *United States v. John Junker*, Crim. No. 12-00511 (D. Ariz. filed Mar. 13, 2012); Junker Plea Agreement; Wisneski Plea Agreement; Indictment, *United States v. Natalie Wisneski*, Crim. No. 11-02216 (D. Ariz. filed Nov. 15, 2011); see also Husk F&LA at 2, 4-7.

<sup>14</sup> Husk Aff. ¶¶ 10-14; see also Resp. at 6-7, 8-10.; RTB Resp. at 1-2 (Feb. 17, 2012); Supp. RTB Resp. at 1-2 (Feb. 28, 2013); Supp. RTB Resp. at 3-4, 8 (Aug. 14, 2013).

<sup>15</sup> Final Report at 80-95; Resp. at 8-10; Supp. RTB Resp. at 2 (Feb. 28, 2013); Supp. RTB Resp. at 3-4, 8 (Aug. 14, 2013); see also Craig Harris, *Fiesta Bowl Employees Say Bowl Repaid Political Contributions*, ARIZ. REPUBLIC, Dec. 18, 2009.

Similarly, the available information casts some doubt regarding whether Wisneski's testimony indicating that Husk originated the scheme should be credited given that her narrative changed over the course of numerous interviews, including her claims at different times that Husk, Junker, or the former Chief Financial Officer of the Fiesta Bowl, Stan Laybourne, were in fact responsible for the scheme.<sup>18</sup>

Husk continues to dispute his liability

<sup>19</sup> Husk has not been criminally prosecuted in connection with the Fiesta Bowl reimbursement scheme after protracted federal and state investigations and an extensive internal investigation conducted by the Fiesta Bowl.

Husk's denials, however, should be balanced against the fact that Husk pleaded guilty in state court to a misdemeanor charge that he himself engaged in a contribution reimbursement scheme through his consulting firm, Husk Partners, in a time period after the Fiesta Bowl scheme

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<sup>18</sup> See Special Committee Report of Interview of Natalie Wisneski at 2, 10-11 (Feb. 2, 2011); Special Committee Report of Interview of Natalie Wisneski at 1 (Mar. 3, 2011);

Husk Supp. Resp., Ex. 1 (Feb. 11, 2014). See also Husk Supp. Resp. at 4 (Aug. 14, 2013);

<sup>19</sup> Husk Aff. at ¶¶ 10-14; see also Resp. at 6-7, 8-10.; RTB Resp. at 1-2 (Feb. 17, 2012); Supp. RTB Resp. at 1-2 (Feb. 28, 2013); Supp. RTB Resp. at 3-4, 8 (Aug. 14, 2013); Supp. RTB Resp. at 2, (Feb. 11, 2014)..

1 started.<sup>20</sup> And despite the possible inconsistencies in Junker's and Wisneski's testimony, both  
2 stated that Husk was involved in the reimbursement scheme in factual bases for their pleas in  
3 federal court under oath and on penalty of perjury. Nonetheless, on balance, the factors we have  
4 outlined here — including the arguably inconsistent statements of the only witnesses, the  
5 agreements of the parties at the center of the Fiesta Bowl scheme to conciliate and admit liability  
6 with the Commission, and the fact that the amount in violation that remains within the statute of  
7 limitations as to Husk is relatively low (specifically, \$5,000) — suggest that further proceedings  
8 involving Husk would not be warranted. Moreover, despite the substantial record presently  
9 before the Commission, no documentary evidence or other credible witness indicates that Husk  
10 actively directed the unlawful reimbursement scheme at issue in this matter.

11 Given this mixed record, we conclude that it would not be an efficient use of Commission  
12 resources to pursue Husk's liability through further probable cause proceedings or by filing suit.  
13 Thus, we recommend the Commission take no further action and close the file with respect to  
14 Husk.

#### 15 **B. Shawn Schoeffler**

16 At the initial stage of this matter the Commission found reason to believe that Shawn  
17 Schoeffler, Fiesta Bowl's former vice president for media relations, violated 52 U.S.C.

<sup>20</sup> In May 2013, Husk was indicted in state court in connection with a scheme involving the reimbursement of contributions made to state and local candidates by employees of Husk Partners. There is no evidence that the contribution reimbursements involving the Husk employees, which apparently took place between June of 2001 and February of 2010, was connected with the Fiesta Bowl scheme. In January 2014, Husk entered a guilty plea in the Maricopa County Superior Court on one misdemeanor count of conspiracy to making prohibited contributions. Plea Agreement, *Arizona v. Gary Anthony Husk*, CR2012-002416-001 (Ariz. Super. Ct. Jan. 17, 2014). Husk was sentenced to one year of probation and ordered to pay \$30,000 in restitution, a \$1,830 fine, and to perform 200 hours of community service. Sentencing Report for Gary Anthony Husk, CR2012-002416-001 (Ariz. Super. Ct. Jan. 27, 2014).



§§ 30118(a) and 30122 (formerly 2 U.S.C. §§ 441b(a) and 441f).<sup>21</sup> According to the Final Report, Schoeffler admitted that his political contributions were reimbursed with Fiesta Bowl funds.<sup>22</sup> In addition, it appeared that Schoeffler participated in soliciting and reimbursing a contribution made by one of his subordinates, Gina Chappin.<sup>23</sup>

In an affidavit Schoeffler provided after the reason to believe finding, he describes himself as a politically inexperienced employee who felt pressured by Fiesta Bowl leadership to contribute to candidates and political committees.<sup>24</sup> According Schoeffler, he participated in the activity at the direction of Junker (or Wisneski on Junker's behalf), who assured him that reimbursing contributions was the "way it was done" and "business as usual."<sup>25</sup> Schoeffler also states that Junker instructed him to approach Chappin regarding the contribution and did so based on a "good faith reliance" that the activity was a normal business practice.<sup>26</sup> Schoeffler

<sup>21</sup> See Commission Certification ¶ 6, MUR 6465 (Dec. 15, 2011). On April 2, 2012, Schoeffler entered a guilty plea in state court to one misdemeanor count of making a prohibited contribution. He was sentenced to one year of probation and fined \$4,600. See Plea Agreement and Sentencing Report, *Arizona v. Michael Shawn Schoeffler*, CR2012-006902-001 (Ariz. Super. Ct. Apr. 2, 2012).

<sup>22</sup> Schoeffler Factual and Legal Analysis at 9-10. Schoeffler's contributions were reimbursed typically through bonus checks, but at least one was reimbursed with a check used to pay for the down payment on a vehicle. Final Report at 50.

<sup>23</sup> *Id.* The evidence is unclear regarding exactly which of Chappin's contribution reimbursements Schoeffler approved. *Id.* at 36; *id.*, Sched. B, E-3.

<sup>24</sup> Schoeffler also states that did not recognize the names of those candidates to whom he contributed, did not even vote in those elections relevant to the conduct at issue, and only contributed to stay on the good side of his superiors at the Fiesta Bowl. Aff. of Shawn Schoeffler ¶ 6 (Dec. 11, 2012); Schoeffler RTB Resp. at 2 (Feb. 29, 2012); Final Report at 35.

<sup>25</sup> Schoeffler Compl. Resp. at 2 (July 7, 2011); Schoeffler Aff. ¶ 82.

<sup>26</sup> Schoeffler RTB Resp. at 2; Schoeffler Aff. ¶ 7. Chappin told investigators that she believed that Junker directed Schoeffler to approach her regarding making the contribution. Final Report at 8, 36.

further states that he only became aware that the Fiesta Bowl's practice of reimbursing employee contributions was illegal when informed by an unnamed colleague in October of 2009.<sup>27</sup>

We recommend that the Commission take no further action and close the file with respect to Shawn Schoeffler because none of the available evidence directly contradicts his sworn statement that he acted at the direction of Junker and because Junker has taken responsibility for the unlawful activities at issue in this matter, admitted to knowing and willful violations of the Act, and paid a substantial civil penalty.<sup>28</sup>

### C. Additional Alleged Conduits

We believe the Commission should exercise its prosecutorial discretion and close the file as to the remaining conduits in this matter: Anthony Aguilar, Scot Asher, Peggy Eyanson, Lee Eyanson, Jamie Fields, Jay Fields, Susan Junker, Mary McGlynn, Monica Simental, and Richard Wisneski.<sup>29</sup> The available evidence indicates that these Respondents participated in the activity at issue at the direction of Fiesta Bowl leadership or in their capacity as uninvolved spouses of subordinate employees. Finally, as noted above, the primary Respondents in this matter have

<sup>27</sup> Schoeffler Aff. ¶ 10.

<sup>28</sup> The Commission made a similar finding with regard to Robert Rubio, a similarly situated respondent in the Cannon matter. See Fifth Gen. Counsel's Rpt. at 2, MUR 5849 (Cannon) (Commission took no further action with regard to manager who reimbursed subordinate's contribution with bank funds at the direction of his own supervisor, Kathleen Cannon); Commission Certification ¶ 2, MUR 5849 (Sept. 23, 2009).

<sup>29</sup> Three of these respondents each entered guilty pleas in state court on single misdemeanor counts of making prohibited contributions. See Plea Agreement, *Arizona v. Anthony Joseph Aguilar*, CR2012-006902-001 (Ariz. Super. Ct. Apr. 2, 2012); Plea Agreement, *Arizona v. Peggy Ann Eyanson*, CR2012-006196-001 (Ariz. Super. Ct. Feb. 21, 2012); Plea Agreement, *Arizona v. Jay Lee Fields*, CR2012-006197-001 (Ariz. Super. Ct. Feb. 21, 2012). The court sentenced Aguilar to one year of probation and a \$4,500 fine. Report of Sentence, *Arizona v. Anthony Joseph Aguilar*, CR2012-006902-001 (Ariz. Super. Ct. Apr. 2, 2012). Fields and Eyanson were each sentenced to one year of probation and fined \$2,500. See Press Release, *AG Horne Announces Court Agreements Reached with Three Fiesta Bowl Defendants* (Feb. 21, 2012), <https://www.azag.gov/press-release/ag-horne-announces-court-agreements-reached-three-fiesta-bowl-defendants>.

1 accepted full responsibility, admitted to knowing and willful violations, and as to the Fiesta Bowl  
2 and Junker, paid significant civil penalties.

3 Accordingly, we recommend that the Commission close the file as to Anthony Aguilar,  
4 Scot Asher, Peggy Eyanson, Lee Eyanson, Jamie Fields, Jay Fields, Susan Junker, Mary  
5 McGlynn, Jamie Fields, Monica Simental, and Richard Wisneski.<sup>30</sup>

6 **IV. RECOMMENDATIONS**

- 7 1. Take no further action and close the file with respect to Gary Husk.  
8  
9 2. Take no further action and close the file with respect to Shawn Schoeffler.  
10  
11 3. Close the file with respect to Anthony Aguilar, Scot Asher, Peggy Eyanson, Lee  
12 Eyanson, Jamie Fields, Jay Fields, Susan Junker, Mary McGlynn, Monica Simental,  
13 and Richard Wisneski.  
14  
15

<sup>30</sup> This recommendation is consistent with previous Commission decisions concerning similarly situated respondents who acted as conduits. See First Gen. Counsel's Rpt. at 15-16, MUR 6054 (Venice Nissan, *et al.*); Sixth Gen. Counsel's Rpt. at 48, MUR 6054 (Venice Nissan, *et al.*) (Commission took no action at this time with certain employee conduits and then closed the file as to those individuals where the investigation failed to indicate they were not active participants in the reimbursement activity); Commission Certification ¶ 3, MUR 6054 (Venice Nissan, *et al.*) (Aug. 24, 2010).

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MUR 6465 (Gary Husk, *et al.*)  
Third General Counsel's Report


4. Approve the appropriate letters.


5. Close the entire file.

Date: 2/3/15

BY:

  
Daniel A. Petalas  
Associate General Counsel for Enforcement

  
Peter G. Blumberg  
Assistant General Counsel

  
Marianne Abely  
Attorney

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